

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:16-cv-00147-RLV**

RIGOBERTO LOPEZ CONSUEGRA,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

ORDER

BEFORE THE COURT is Plaintiff's Consent Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A). (Doc. 18). Plaintiff represents that Defendant consents to the motion. Defendant has not filed a response to Plaintiff's motion, and the time to file a response has elapsed. (Doc. 18). For the reasons stated below, the Motion is **GRANTED**.

Defendant moved this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment reversing her decision with a remand of the case for further administrative proceedings. (Doc. 15). This Court granted the motion, reversed the Commissioner's decision and remanded the case to the Commissioner for further proceedings. (Doc. 16).

In the present motion, the Plaintiff requests attorney's fees in the amount of \$4,950.31, representing 25.55 hours of attorney work. (Doc. 18; Doc. 18-2). The Court has reviewed the Plaintiff's request, as well as the evidence submitted in support of the request, and finds that the Plaintiff's requested fee and the hours spent prosecuting this matter are reasonable. *See, e.g., Rogers v. Astrue*, No. 5:12-CV-00003-RLV-DCK, 2015 WL 9239000, at *3 (W.D.N.C. Dec. 17, 2015) (Voorhees, J.). Pursuant to the power of this Court to award fees to a prevailing party other than the United States incurred by that party in a civil action against the United States, including

proceedings for judicial review of agency action, under the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A), and in light of this Court's order remanding this case to the Commissioner for further administrative proceedings (Doc. 16), **IT IS ORDERED** that the Court will award attorney's fees in the amount of \$4,950.31.

Pursuant to the United States Supreme Court's ruling in *Astrue v. Ratliff*, 560 U.S. 586, 130 S. Ct. 1251 (2010), these attorney's fees are payable to Plaintiff as the prevailing party and are subject to offset through the Treasury Department's Offset Program to satisfy any pre-existing debt Plaintiff may owe to the government. If, subsequent to the entry of this Order, the Commissioner determines that Plaintiff owes no debt to the government that would subject this award of attorney's fees to offset, the Commissioner may honor Plaintiff's February 2016 signed assignment of EAJA fees (Doc. 18-1), providing for payment of the subject fees to Plaintiff's counsel, rather than to Plaintiff. If, however, Plaintiff is discovered to owe the government any debt subject to offset, the Commissioner shall pay any remaining attorney's fee to Plaintiff's counsel in accordance with the above agreement.

Signed: May 10, 2017



Richard L. Voorhees
United States District Judge

